

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of)
)
Texas Public Utility Commission)
Petition for Delegation of Additional)
Authority to Implement Number)
Conservation Measures)

CC DOCKET: 96-98

NSD File No. L-97-55

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Cellular Telecommunications Industry Association ("CTIA")¹ hereby submits its comments on the petition filed by the Texas Public Utility Commission ("TPUC") for the delegation of additional authority to implement number conservation measures.

I. INTRODUCTION

The TPUC has petitioned the Commission seeking a greater role in the area of number conservation and area code relief than the Commission prescribed in the *Pennsylvania Numbering Order*.² By requesting additional authority to implement

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers.

² Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, NSD File No. L-97-42; CC Docket No. 96-98, *Memorandum Opinion and Order on Reconsideration*, 13 FCC Rcd. 19009 (1998) ("*Pennsylvania Numbering Order*").

various number conservation methods in the state of Texas,³ the TPUC joins other state-specific requests to recast the balance the Commission struck in the *Pennsylvania Numbering Order*. The *Pennsylvania Numbering Order* delegated to the states the critical role of providing timely and non-discriminatory area code relief and reserved to the FCC the establishment of national number conservation and efficient number utilization policies.⁴ CTIA opposes the Texas petition for the same reasons articulated by the FCC in the *Pennsylvania Numbering Order* and because CTIA strongly believes that conservation measures must be developed at the national level.⁵

Indeed, the Commission has addressed the development of national conservation measures with the rulemaking on number resource optimization.⁶ In a comprehensive NPRM, with comments already filed and reply comments due by the end of this month, the FCC has made proposals and requested comment on a wide variety of issues related to number conservation in an effort to increase carriers' efficient use of numbers and delay exhaust of the North American Numbering Plan. This proceeding will result in a

³ *Public Notice*, Common Carrier Bureau, DA No. 99-1380, (July 14, 1999), Common Carrier Bureau Seeks Comment on the Texas Public Utility Commission Petition for Delegation of Additional Authority to Implement Number Conservation Measures.

⁴ *See Pennsylvania Numbering Order*.

⁵ *Pennsylvania Numbering Order* at ¶¶ 21, 27, 30.

⁶ In the Matter of Numbering Resource Optimization; Connecticut PUC for Rulemaking to Amend the Commission's Rule Prohibiting Technology-Specific or Service Specific Area Code Overlays; Massachusetts Department of Telecommunications and Energy Petition for Waiver to Implement a Technology Specific Overlay in the 508, 617, 781 and 978 Area Codes; California PUC and the People of the State of California Petition for Waiver to Implement a Technology Specific or Service-Specific Area Code, CC Docket No. 99-200; RM No. 9258, NSD File No. L-99-17; NSD File No. L-99-36, *Notice of Proposed Rulemaking* ("Numbering Optimization NPRM"), released June 2, 1999.

national numbering plan and is all the more reason why the Commission should deny state petitions like those of Texas which request “piecemeal” fixes to a problem that is national in scope.

Specifically, TPUC requests additional authority to: (1) implement thousand block pooling; (2) implement unassigned number porting; (3) reclaim unused NXX codes and thousand number blocks; (4) require all codeholders to provide to the Texas Commission utilization and forecast information; and (5) order sequential number assignment.⁷

II. THE COMMISSION HAS RELEASED A NOTICE OF PROPOSED RULE MAKING WHICH WILL BRING ABOUT THE ADOPTION OF EFFECTIVE, NATIONWIDE NUMBERING CONSERVATION MEASURES

The alternative to the adoption of nationwide numbering conservation solutions is a “patchwork” of individualized, local measures that would subject carriers to inconsistent state numbering administration regimes and impermissibly compromise the Commission’s exclusive jurisdiction over the North American Numbering Plan for the United States. The Commission struck an appropriate balance in the *Implementation Order* and the *Pennsylvania Numbering Order* by retaining federal authority over numbering administration, but allowing state commissions to engage in area code relief. The Commission has stated that a nationwide, uniform system of numbering is essential to the efficient delivery of interstate and international telecommunications services.⁸ The

⁷ Petition of the Public Utility Commission of Texas for Expedited Decision for Delegation of Authority to Implement Number Conservation Measures, filed July 6, 1999, CC Docket 96-98, at 10.

⁸ *Ameritech Order* at ¶ 13. *Pennsylvania Numbering Order* at ¶ 21.

lack of uniformity also could hamper industry efforts to forecast and plan properly for exhaust of the North American Numbering Plan.⁹

The FCC, recognizing that a nationally coordinated effort is needed to address problems of number exhaust, has begun a comprehensive effort to develop a national numbering optimization plan by releasing a NPRM on numbering resource optimization (“Numbering Optimization NPRM”). The FCC seeks to create national standards for numbering resource optimization which: (1) minimize the negative impact on consumers; (2) ensure sufficient access to numbering resources for all service providers that need them to enter into or to compete in telecommunications markets; (3) avoid, or at least delay, exhaust of the NANP and the need to expand the NANP; (4) impose the least societal cost possible, in a competitively neutral manner, while obtaining the highest benefit; (5) ensure that no class of carrier or consumer is unduly favored or disfavored by number optimization efforts; and (6) minimize the incentives for carriers to build and carry excessively large inventories of numbers.

If the Commission’s NPRM on numbering is to succeed, there must be a moratorium on piecemeal state initiatives. Permitting states to adopt individual conservation measures contrary to the conclusions reached by the Commission could tie the Commission’s hand and limit, or even thwart, the Commission’s conservation efforts. The measures proposed by TPUC either run afoul of the Commission’s present policies or are under consideration by the Commission in the pending Numbering Optimization NPRM.

⁹ *Pennsylvania Numbering Order* at ¶ 21.

III. CMRS CARRIERS MUST NOT BE REQUIRED TO DEPLOY LNP PREMATURELY

TPUC requests authority to institute conservation measures locally which require wireless carriers to deploy LNP capability. Specifically, TPUC requests authority to implement thousand block number pooling and unassigned number porting. The Commission noted in its February 9, 1999, Order granting CTIA's forbearance petition that the wireless industry needs additional time to develop and deploy the technology that will allow viable implementation of service provider portability, including the ability to support seamless nationwide roaming.¹⁰ In order for LNP to be viable in the wireless context, *every* wireless switch has to be LNP capable, otherwise roaming will not be possible. Thus, as the Commission has recognized, "local" conservation measures which require LNP capability would affect the wireless industry on a national scale and would prejudice efforts by the FCC to develop national, uniform conservation solutions. In this regard, there is no separation of local and national conservation methods.

CTIA does not oppose voluntary thousands block number pooling trials. CTIA does, however, strongly oppose mandatory pooling arrangements like those proposed by the TPUC, that require wireless LNP capability and thereby impose new obligations on all CMRS providers nationwide, or else deny Texas wireless customers the ability to roam. Conservation measures which require all carriers to have LNP capability necessarily disadvantage and discriminate against the wireless industry, which has implementation issues that are very different from wireline carriers. For that reason, the

¹⁰ Id. at ¶ 25.

Commission has determined that requests to institute mandatory pooling trials are discriminatory.¹¹ Such requests must be denied.

TPUC also requests authority to implement unassigned number porting (“UNP”). Because UNP requires LNP capability, it is objectionable for the same reasons that led the Commission to decline to impose 1,000 block pooling on wireless carriers. Commentors in other state proceedings have questioned whether UNP is even a “conservation measure.”¹² The practical disadvantages of UNP are stated in the NANC Report on Number Resource Optimization (“NRO report”).¹³ UNP may encourage the “mining” of desirable numbers from a carrier’s inventory without the carrier’s consent. UNP rewards carriers who are less efficient users of numbering resources at the expense of those carriers which efficiently manage and use their numbering resources—and who have a legitimate business and operational need for a certain level of numbers in their inventory.

UNP also would cause CMRS providers to be less efficient users of numbering resources. The wireless industry simultaneously experiences both a high degree of churn and high net growth. These marketplace realities, coupled with system requirements which demand reserve numbers be available for operations and billing integrity, *e.g.*, for aging and roaming, would necessarily require CMRS providers to request larger

¹¹ See *Pennsylvania Numbering Order* at ¶¶ 40-41.

¹² See US West Comments, filed May 4, 1999, File No. NSD-L-99-27, at 2, footnote 5.

¹³ See Number Resource Optimization Working Group Modified Report to the North American Numbering Council on Number Optimization Methods (October 21, 1998) at 129-130.

quantities of numbers in order to meet consumer demand. Removing blocks of unused numbers from CMRS inventories and porting them to other carriers would have the unintended consequence of making it impossible for CMRS carriers to meet their own customer demand.

Further, UNP is incompatible with unique wireless operations, distribution channels and marketplace expectations. Specifically, UNP would not permit CMRS carriers' to offer customers instant activation; UNP does not recognize numbers which are system reserved for roaming; UNP would negatively impact the aging of disconnected numbers which is important for the protection of billing integrity for roaming; and UNP would create serious dislocations to the competitive distribution channels used by the wireless industry by adding additional layers of cost and complexity to their operations.

IV. CMRS CARRIERS HAVE VOLUNTARILY PARTICIPATED IN NUMBER CONSERVATION INITIATIVES IN TEXAS

TPUC requests authority from the Commission to reclaim unused NXX codes and thousand number blocks and to require all codeholders to provide TPUC utilization and forecast information. CMRS carriers have fully cooperated with TPUC's efforts to reclaim codes and thousand blocks. Similarly, CMRS carriers have provided TPUC with utilization and forecast information under confidentiality agreements. These measures were voluntary. It is unclear, given the industry's participation with TPUC's efforts, why additional authority is needed from the FCC to require carriers to do that which they have already done voluntarily.

The TPUC, in the section of its petition citing the need for expedited action,¹⁴ accuses the industry of making a run on NXX codes in the 817 NPA in an attempt to discourage efforts by the TPUC to implement a number pooling trial there. The “evidence” of the alleged misdeeds is the request from eleven service providers for fifty-four NXX codes in the 817 NPA in the month of June. CMRS carriers have worked with the TPUC voluntarily to promote area code relief and not unnecessarily affect consumers. Not only does this allegation ignore the cooperation of the industry in preserving telephone numbers, it also ignores the fact that carriers must justify their need for numbering resources with the NANPA and submit a “months-to-exhaust” worksheet demonstrating the need for additional numbering resources. The Commission has taken the correct course by exploring ways to increase carriers’ accountability for NXX code demands without demonizing the industry when carriers have legitimate business needs for numbering resources.¹⁵

V. CONCLUSION

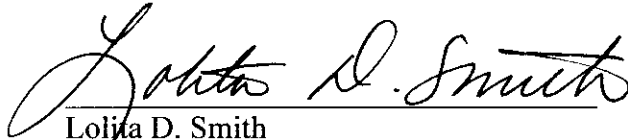
There is no impediment preventing the states from using the tools available to them – area code splits, non-service specific overlays, and rate center consolidation – to provide carriers with the numbering resources they need to fulfill the Congressional mandate of a competitive communications marketplace.

¹⁴ Petition of the Public Utility Commission of Texas for Expedited Decision for Delegation of Authority to Implement Number Conservation Measures, filed July 6, 1999, CC Docket 96-98, at 8-9.

¹⁵ The FCC maintains a website which contains a section on area code relief. In the “Frequently Asked Questions” portion of the site, the FCC recognizes that competition has increased the demand for telephone numbers and that competing companies need inventories of numbers in order to offer service to telecommunications customers.

Texas and the other states which have petitioned the FCC for greater authority over the administration and assignment of numbering resources understandably are concerned about code exhaust in their jurisdiction. However, code exhaust is only one element of efficient number utilization. The most efficient utilization of the nation's numbering resources is the FCC's national approach which assigns to the states an important role and seeks to address the efficient use of both NPA's as well as NXX codes for *all* states and *all* consumers.

Respectfully submitted,


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